

REMARKS:

Claims 47-78 are in the case and presented for consideration.

Although 7 new claims have been added, no claim fee is believed to be required, since 7 claims have also been canceled, and those claims have been previously paid.

The examiner is respectfully thanked for her consideration and comments during the telephone interview with the undersigned on March 12, 2003. Applicants observe that the examiner's statement of the interview initially identifies the date of the interview as "February 12", rather than March 12, although subsequent dates in the statement are correct.

Claims 40-71 were rejected pursuant to 35 U.S.C. §112, second paragraph as being indefinite due to the use of the terms "high melting point" and "low melting point" to describe the two paraffin waxes in the composition.

This rejection was discussed during the telephone interview and the examiner has subsequently stated that the rejection is overcome by the evidence submitted in support of the applicants' choice of terminology. The web page printouts faxed to the examiner for consideration showing use of the same terms by others to mean substantially the same ranges as described by applicant were deemed acceptable to overcome the rejection.

As was discussed, the evidence submitted shows that persons skilled in the relevant art would understand a low melting point paraffin wax will have a melting point of about 124°F to 130°F. The evidence shows as well that it is understood a high melting point paraffin wax will usually have a melting point higher than about 137-138°F.

Claims 44 and 50 were rejected on the basis that claim 50 duplicates claim 44. Claim 44 has been canceled.

Claims 40-71 were rejected pursuant to 35 U.S.C. §102 as anticipated by the disclosure of U.S. Patent 6,284,007 to Tao, referenced in the instant application. In particular, the examiner has stated that the limitation in Tao '007 that the vegetable oil component has "about 1% weight to about 99% weight of said free fatty acids" is read to include a vegetable oil composition having no more than 0.3% wt., as recited in the claims of the application.

This rejection was discussed with the examiner during the March 12th telephone interview as well, but agreement was not reached. As discussed, previously, applicants respectfully disagree with the position of the Office that the vegetable oils disclosed in Tao '007 can possibly include less than 1% wt. free fatty acids. Such vegetable oils are not taught or suggested by the Tao '007 disclosure. There are significant differences in vegetable oils having much less than 1% wt. free fatty acids and those with a greater percentage.

Claims 40-46 have been canceled, and new claims 72-78 have been added. All of the pending claims recite that the free fatty acids in the vegetable oil component are no more than 0.3% wt. of the vegetable oil.

It is generally understood that vegetable oils are comprised of a combination of triglycerides and free fatty acids, because not all of the fatty acids making up the triglycerides polymerize and join together. Most naturally occurring vegetable oils have between 1% and 20% free fatty acids mixed with triglycerides. Naturally occurring vegetable oils will not have less than 1% free fatty acids. Rape seed oil, for example, normally has about 2% free fatty acids.

Vegetable oils having less than about 1% wt. of free fatty acids can only be obtained through refining the vegetable oil to eliminate free fatty acids. Refined vegetable oils are not common and absent a specific instruction to use such a refined oil, one would not expect a vegetable oil to have less than 1% wt. of free fatty acids.

Tao '007 recites several different ranges of free fatty acid and triglyceride mixtures, including several preferred ranges. Notably, none of the disclosed ranges of free fatty acids is lower than 1% wt. of the vegetable oil mixture. In fact, the more preferred ranges have increasingly higher percentages of free fatty acids. See, e.g., col. 3, line 63 to col. 4, line 15. Tao '007 clearly does not indicate that percentages lower than 1% are acceptable, and, in contrast, teaches away from such low content of free fatty acids.

The vegetable oils disclosed in Tao '007 are only naturally occurring oils. Tao '007 does not include any teaching or suggestion that refined vegetable oils with very low free fatty acid content should be used. Tao '007 does teach using a triglyceride-only composition, but in that instance, there are no free fatty acids present. Tao '007 does not disclose any compositions containing both triglycerides and free fatty acids in which the free fatty acid content does not exceed 0.3% wt.

As recited in the claims of the present application, the vegetable oil component must contain some free fatty acids, but no more than 0.3% wt. of the vegetable oil. This limitation, found in each claim, is not taught or suggested by the disclosure of Tao '007.

In applicants' specification, a description and examples are provided which demonstrate the usefulness of candles having the low free fatty acid content claimed. At paragraph 34 on page 12 of the application, the free fatty acid content preferred for use is set forth as being less than 0.5% wt. and preferably less than 0.3% wt. of the hydrogenated vegetable oil used. Applicants submit that the preceding paragraphs, 32

and 33, of the specification clearly describe the effects and benefits of these extremely low levels of free fatty acid used in the vegetable oil candle. The inventors found these low levels of free fatty acid content to be critical to the invention and has specified them in the application for that reason.

Thus, applicants submit that claims 47-78 are novel and non-obvious from the prior art of record for the reasons set forth above.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested. No new matter has been added.

If any issues remain which may be resolved by telephonic communication, the Examiner is respectfully invited to contact the undersigned at the number below, if such will advance the application to allowance.

Favorable action is respectfully requested.

Respectfully submitted,



Mark A. Conklin
Reg. No. 39,148
Attorney for Applicants
(845) 359-7700

Dated: July 11, 2003

NOTARO & MICHALOS P.C.
100 Dutch Hill Road
Suite 110
Orangeburg, New York 10962-2100

Customer No. 21706

MAC:mae:al